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Letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

On behalf of Ambassador Tete Antonio, Permanent Observer of the African Union to the United Nations, I have the honour to forward the following for your high attention:

- Report of the Chairperson of the Commission on the situation in Madagascar and the related communiqué issued by the African Union Peace and Security Council at its 216th meeting, held on 19 February 2010 in Addis Ababa, Ethiopia (see annexes I and II).

- Communiqué on the situation in the Republic of the Niger issued by the African Union Peace and Security Council at its 216th meeting, held on 19 February 2010 in Addis Ababa, Ethiopia (see annex III).

The African Union Commission wishes to request that these documents be circulated as a document of the Security Council.

(*Signed*) Alice A. **Mungwa**
Chargé d'affaires a.i.

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Annex I to the letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

[Original: English and French]

Report of the Chairperson of the Commission on the situation in Madagascar

I. INTRODUCTION

1. Since the eruption of the crisis in Madagascar and the unconstitutional change that occurred in that country on 17 March 2009, when the President of the Republic, Marc Ravalomanana, under pressure from the civilian opposition and the army, resigned from office and handed power to a Military Directorate which, in turn, transferred the power to Andry Rajoelina, Council has examined the situation in that country on several occasions, namely: 16 March 2009 (179th meeting), 17 March 2009 (180th meeting), 20 March 2009 (181st meeting), 21 August 2009 (200th meeting), 10 September 2009 (202nd meeting), 9 November 2009 (208th meeting) and 7 December 2009 (211th meeting). More specifically, the decisions taken at the aforementioned meetings focussed mainly on the following points:

- strong condemnation of the unconstitutional change of Government in Madagascar and the subsequent suspension of the country from participating in the activities of the African Union, in conformity with the Lomé Declaration of July 2000 and the AU Constitutive Act;

- demand for speedy return to constitutional order and Council's affirmation of its determination to take all the measures required to achieve the above objective, including the imposition of sanctions;

- support for the Maputo Agreements of 8 and 9 August 2009 and Addis Ababa Additional Act of 6 November 2009, including the expeditious establishment of the Monitoring Mechanism provided for under Article 12 of the Act; and

- appeal to the international community, particularly within the framework of the International Contact Group on Madagascar (ICG-M), to support AU position.

2. This report is submitted pursuant to Assembly Decision Assembly/AU/Dec 279 (XIV) Rev.1 on the Situation in Madagascar adopted by the 14th Ordinary Session of the Assembly of the Union held in Addis Ababa from 31 January to 2 February 2010, which requested Council to meet in due course to review the situation and take the required decisions in light of the relevant AU instruments. It provides an account of the process which led to the conclusion of the Maputo Agreements and the Addis Ababa Additional Act, as well as the difficulties encountered in their implementation. The report concludes with recommendations on the action that Council may wish to take in light of the current state of the process of resolving the crisis and restoring constitutional order in Madagascar.

II. CONCLUSION OF THE INTER-MALAGASY AGREEMENTS AND THE DEADLOCK IN THEIR IMPLEMENTATION

3. Council will recall that, in line with the decision on the Report of the Peace and Security Council on its activities and the State of Peace and Security in Africa [Assembly/AU/Dec 252 (XIII)], adopted by the 13th Ordinary Session of the Assembly of the Union held in Sirte from 1 to 3 July 2009, I convened the second consultative meeting of the ICG-M in Addis Ababa on 22 July 2009. On that occasion, the ICG-M stressed the urgent need for a rapid return to constitutional order, through a consensual process involving all the Malagasy political actors and based on the respect for the relevant provisions of the Constitution of the country. The ICG-M agreed on the convening, under the auspices of the AU, in Mozambique, of a meeting of the four Malagasy political camps represented by their respective *chefs de file*, namely, Marc Ravalomanana, Didier Ratsiraka, Albert Zafy and Andry Rajoelina, to find a consensual solution for a speedy return to constitutional order.

4. Pursuant to the decision of the second meeting of the ICG-M, the *chefs de file* of the Malagasy political camps met in Maputo from 5 to 9 August 2009. The meeting, which took place under AU auspices, was chaired by former President Joaquim Chissano, Head of the SADC Mediation Team, assisted by the Special Envoys of AU, OIF and UN. At that meeting, the *chefs de file*, among other things, adopted, on 8 and 9 August 2009, the Charter of the Transition, the Maputo Political Agreement, the Charter of Values and related agreements (the Maputo Agreements). They agreed, in particular, on a neutral, inclusive, peaceful and consensual transition which should not exceed 15 months starting from the date of the signing of the Maputo Agreements.

5. In the aftermath of the Maputo meeting, and in a context marked by difficulties in implementing the Agreements, the *de facto* authorities decided, on 8 September 2009, to form what was termed a Government "of National Unity" without the participation of the three other political camps that were signatories to the Maputo Agreements. Council, at its 202nd meeting held on 10 September 2009, expressed its deep concern at this development, stressed that the Charter of the Transition and the Maputo Agreements remained the consensual framework for a peaceful exit from the crisis, and called on the Malagasy parties to continue the inclusive dialogue for a consensual distribution of posts of responsibility within the institutions of the Transition.

6. On 6 October 2009, I convened the third meeting of the ICG-M in Antananarivo. At the end of its deliberations, the ICG-M, *inter alia*, noted with satisfaction the important developments that took place that very day, with the consensus on the following key positions, namely: President of the Transition – Andry Rajoelina; Vice President of the Transition – Dr. Emmanuel Rakotovahiny of the Zafy led Camp; Prime Minister, Head of the consensus Government – Eugène Mangalaza, proposed by the Ratsiraka camp; Congress of the Transition – Ravalomanana camp; High Council of the Transition (HCT) –Rajoelina camp; National Reconciliation Council – Prof. Albert Zafy; Economic and Social Council – Civil Society; Deputy Prime Minister – Ravalomanana camp; Deputy Prime Minister – Zafy camp; and Deputy Prime Minister – Rajoelina camp. While accepting Mr. Andry Rajoelina as President of the Transition,

the Ravalomanana camp, however, expressed strong objection to the latter contesting the next presidential elections. The ICG-M invited the Joint Mediation Team to, as soon as possible, convene a meeting of the *chefs de file* of the Malagasy political camps to find a consensual solution to the outstanding issues.

7. Following consultations between the Joint Mediation Team and the Malagasy parties concerned, it was agreed to convene in Addis Ababa, in November 2009, a meeting of the *chefs de file* of the political camps. Consequently, the *chefs de file* held their third meeting in Addis Ababa from 3 to 7 November 2009. On that occasion, they adopted the Additional Act to the Charter of the Transition (Addis Ababa Additional Act). That Act substantially modified certain provisions of the Charter of the Transition by, in particular, introducing the appointment of two co-Presidents for the Ravalomanana and Zafy camps, in place of the Vice-President agreed in Maputo; the President of the Transition and the co-Presidents form a Presidential Council on which specific responsibilities were conferred. The Prime Minister, Mr. Mangalaza, was confirmed in his post by the Addis Ababa Additional Act, which also assigned six ministerial portfolios to each of the four camps, and seven to "other Malagasy stakeholders". The *chefs de file* made a commitment to establish, under the auspices of AU, a Monitoring Mechanism which will also comprise SADC, OIF and the United Nations, the institutions guaranteeing the implementation of the various Agreements.

8. At its 208th meeting held in Addis Ababa on 9 November 2009, Council called on the political actors of Madagascar to scrupulously and in good faith implement the commitments made and urged the political camps to intensify their consultations to finalize, without delay, the consensual distribution of positions of responsibility within the Government of National Unity with a view to enable it to start functioning. Council requested me to rapidly establish the Monitoring Mechanism and to take the necessary steps to dispatch, in collaboration with other development partners of Madagascar, an assessment mission to evaluate Madagascar's electoral needs.

9. On 16 November 2009, I wrote to the Secretaries-General of the United Nations and the OIF, as well as the Executive Secretary of SADC, to indicate that, following the successful conclusion of the mission entrusted to the Joint Mediation, the support of the international community to the crisis exit process would henceforth be carried out through the Monitoring Mechanism. To this end, I requested my interlocutors to kindly take necessary steps to translate into deeds the contributions of their respective organizations to the rapid establishment of this Mechanism.

10. From 26 to 27 November 2009, and in pursuance of the Maputo Agreements, the Addis Ababa Additional Act and the aforementioned decision of Council, a joint AU/United Nations/Francophonie Mission, at the initiative of the Commission, proceeded to Antananarivo to assess the status of implementation of the commitments made by the Malagasy parties, identify the difficulties encountered and the measures to be taken to overcome them. The focus of the mission was also to discuss with all the parties concerned the modalities for rapid establishment of the monitoring Mechanism provided for in Article 12 of the Addis Ababa Additional Act. The mission observed that the momentum generated by the Addis Ababa

Additional Act had evaporated, giving way to distrust among the Malagasy parties, and that the process of implementing the Agreements concluded, in particular, the formation of a Government was faced with increasing difficulties.

11. At its 211th meeting held on 7 December 2009, Council expressed deep concern at the situation. It urgently appealed to all the political camps in Madagascar to demonstrate the political will needed to resolve the current impasse, in strict compliance with the Maputo Agreements and the Addis Ababa Additional Act, and place the superior interest of the country above any other consideration. Council took note of the steps that I had taken towards establishment of the Monitoring Mechanism. In this regard, it urged all relevant organizations, namely, SADC, OIF and the United Nations, to expeditiously appoint their representatives on the Monitoring Mechanism and to take all other steps required to facilitate its effective functioning. Council took note with satisfaction my intention to take advantage of the ICG-M to ensure continuous mobilization of the international community for a solution to the crisis.

12. From 4 to 9 December 2009, President Guebuza Armando Emilio, in his capacity as President of the SADC Organ on Politics, Defense and Security Cooperation, and former President Joaquim Chissano invited the *chefs de file* of the Malagasy political camps to another meeting in Maputo, with a view to resolving the outstanding issues. The President of the Transition, Mr. Andry Rajoelina, declined the invitation. At the meeting, the *chefs de file* of the three camps adopted "Resolutions on the Implementation of the Charter of the Transition and the Addis Ababa Additional Act on the Malagasy Transition". These Resolutions were rejected by the Rajoelina political camp, which described them as "a coup d'Etat". Subsequently, the *de facto* authorities adopted a series of unilateral measures concerning the conduct of the Transition, including the abrogation of the Charter of the Transition and dismissal of the consensus Prime Minister, Eugène Mangalaza, alleging that the implementation of the Maputo Agreements and the Addis Ababa Additional Act had become impossible.

III. EFFORTS TO RELAUNCH THE CRISIS EXIT PROCESS AND RELATED DEVELOPMENTS

13. In view of the deadlock, and after consultations with all the concerned players, I, on 6 January 2010, organized the 4th meeting of the ICG-M in Addis Ababa. The purpose of the meeting was to relaunch the process for a way out of the crisis in Madagascar and to agree on the measures to be taken in this regard.

14. The meeting reaffirmed the validity of the Maputo Agreements and the Addis Ababa Additional Act and gave its full support to my initiative to present to the Malagasy parties "compromise solutions" to the outstanding issues. It was agreed that these measures should focus all the institutions of the Transition, including the Government, and the organization of elections and should facilitate implementation of the Maputo Agreements and the Addis Ababa Additional Act. It was also agreed that I should rely on a consultative group of ICG-M experts to elaborate the afore-mentioned compromise solutions. The ICG urged the Malagasy parties to forward to the AU Commission, within two weeks, their reactions to the compromise solutions to be submitted to them and agreed to meet in Addis Ababa after submission by the Malagasy parties of their reactions.

15. The meeting of ICG-M experts took place as planned in Addis Ababa on 19 January 2010 to finalize the proposed compromise solutions to the outstanding issues. The solutions are rooted in the principle that the Maputo Agreements of 8 and 9 August 2009 and the 6 November 2009 and the Addis Ababa Additional Act, negotiated and signed by the four *chefs de file* of the political camps in Madagascar, constitute a decisive gain in the crisis exit process and a vital foundation for the conduct of an inclusive, consensual and as short as possible transition. The proposals focus particularly on the following points:

(i) The Transition and Institutional Matters: The document indicates that the Transition should end as quickly as possible and, in any case, should come to an end not later than November 2010. It also stipulates that the institutions provided for by the Maputo Agreements and the Addis Ababa Additional Act should be established and operationalized without delay.

While maintaining the roles and responsibilities of the President of the Transition, who shall exercise the functions of Head of State, and those of the co-Presidents as stipulated and defined by the Charter of the Transition and the Addis Ababa Additional Act, the document provides additional clarifications, particularly on the need for the President of the Transition to exercise his functions in the spirit of consensus and refrain from taking any decision that would engage the future of the country in the long term; vesting specific responsibilities on the co-Presidents on delegation of the President of the Transition; countersigning of the Acts of the President of the Transition made in the Council of Ministers; vacancy and inability to act; protocol precedence of the President of the Transition over the co-Presidents; and confirmation of the Prime Minister, Head of the Government of National Unity, Eugène Mangalaza, in his duties.

The document also contains, in Annex, proposals for the distribution of the Ministerial portfolios, in accordance with the distribution yardstick agreed in the Addis Ababa Additional Act.

(ii) Elections: The document stipulates that elections should be held within such timeframe as would ensure their credibility and transparency, as well as compliance with the time lines and modalities set forth in the Maputo Agreements and the Addis Ababa Additional Act. The Malagasy parties should, for their part, undertake to make the necessary political and technical choices in this regard and on the basis of the recommendations to be put forward by the international election assessment mission provided for by the Maputo Political Agreement and the Charter of the Transition.

In this connection, and bearing in mind that, according to the Charter of the Transition, three elections have to be organized (constitutional referendum, legislative elections and presidential elections) and in view of the urgency, the document proposes the following: organization, as speedily as possible, of a referendum to approve the Constitution in accordance with the Charter of the Transition, and organization of concurrent legislative and presidential elections not later than October 2010.

(iii) Confidence building measures: The document calls on the President of the Transition to take all the measures needed to implement the Maputo related Agreements and to promulgate and ensure publication in the Official Journal of Madagascar of the Amnesty Law as soon as this is ratified by the HCT and the Congress of the Transition at their respective first sessions in accordance with the provisions of the Charter of the Transition.

(iv) Monitoring Mechanism: The document reaffirms the provisions of the Addis Ababa Additional Act. It stipulates, *inter alia*, that the Malagasy parties should agree that possible disputes would be submitted by members of the Monitoring Mechanism to their respective organizations which would consult among themselves to implement a procedure to resolve the dispute.

16. I submitted the above proposals to the Malagasy parties during my visit to Madagascar from 21 to 22 January 2010 at the head of a delegation comprising the Commissioner for Peace and Security and representatives of ICG-M member institutions, including SADC, International Organization of the Francophonie (OIF), the Indian Ocean Commission (IOC) and the United Nations. In the course of that visit, I held talks with various Malagasy parties, in particular the President of the Transition, Andry Rajoelina; the co-Presidents of the Transition, Emmanuel Rakotovahiny and Fetison Rakoto Andrianirina; the Prime Minister, Head of the Consensus Government, Eugène Mangalaza; Colonel Camille Vital, the Prime Minister unilaterally appointed by the High Authority of the Transition; leaders of the four political camps in Madagascar; members of the Military Council for National Defence (MCND); the Alliance of Civil Society Organizations; the camp of religious leaders and other national personalities in Madagascar. I also held discussion with members of the local branch of ICG-M and the diplomatic corps.

17. In my interaction with the Malagasy parties, I emphasized the need for speedy implementation of the Maputo Agreements and the Additional Act of Addis Ababa and presented explanations and clarifications on the issues raised by my interlocutors. I expressed the hope that the Malagasy parties would demonstrate the spirit of responsibility and compromise required to overcome their difficulties and engage resolutely in a consensual and inclusive Transition leading to the organization of free and fair elections and the restoration of constitutional order in accordance with the inter-Malagasy Agreement and the doctrine of the African Union. The Ratsiraka, Zafy and Ravalomanana camps voiced their acceptance in principle of the measures proposed and promised to submit their formal reaction and their observations. The Rajoelina camp, for its part, indicated that the rest of the process should give premium to the expression of the will of the people through legislative elections.

18. Pursuant to the commitments made in Antananarivo, the Ratsiraka, Zafy and Ravalomanana camps submitted their observations to the AU Commission on 27, 28 and 30 January 2010, respectively. The Rajoelina camp submitted its observations on 5 February 2010. All these observations may be summarized as follows:

(i) The Transition and the Institutions

The Zafy led camp holds the view that the functions of the President of the Transition, as recognized in the Charter of the Transition and reiterated in the Addis Ababa Additional Act, are inordinate. It therefore presents a proposal for new and substantially reduced functions for the President of the Transition and for the consensus Prime Minister.

The Ravalomanana camp suggests that, in the event of the absence of the President of the Transition, an acting President should be decided by common agreement in the Presidential Council.

The Rajoelina camp questions the need to maintain the Presidential Council given the difficulties encountered, the exorbitant demands and requirements of the two co-Presidents, as well as their conduct and attitude. The camp also calls for the maintenance of Colonel Camille Vittal in his functions. Regarding the other institutions of the Transition, the Rajoelina camp is of the view that, given the budgetary constraints and the very short period of the Transition, the establishment of the aforementioned institutions, with the exception of the HCT, is no longer tenable.

(ii) Elections

The Zafy camp is not opposed to the concurrent holding of presidential elections and legislative elections as proposed in the document containing the compromise measures.

The Ratsiraka camp, for its part, holds that it is desirable that presidential elections precede the legislative elections.

As for the Ravalomanana camp, it is in favor of the electoral calendar as defined in the Charter of the Transition (i.e. a referendum followed by legislative elections and then by presidential elections).

The Rajoelina camp proposes that legislative elections be held as speedily as possible so that the level of the people's confidence in each of the concerned political players could be measured. It indicates that it accepts the establishment of an Independent National Electoral Commission composed mainly of representatives of the civil society with wide powers to organize and supervise elections.

(iii) Confidence Building Measures and Monitoring Mechanism

The different camps agree on the need to implement the confidence building measures set out in the document. The Rajoelina camp indicates that it is prepared to enact an amnesty edict prior to the legislative elections as well as an edict on immediate establishment of a monitoring mechanism.

(iv) Distribution of Ministerial Portfolios

The Ratsiraka camp has no objection regarding the distribution of Ministerial portfolios as proposed in the document on compromise measures.

The Ravalomanana and Zafy camps call for changes in the distribution of ministerial portfolios.

The Rajoelina camp calls for implementation of Article 4 of the Charter of the Transition which stipulates that "the President of the Transition shall appoint members of the Government on the advice of the Prime Minister".

19. The 14th Ordinary Session of the Assembly of the African Union discussed the situation in Madagascar and expressed deep concern over the continuing political crisis in the country. The Assembly stressed that the Maputo Agreement and the Addis Ababa Additional Act remain the only road map for a comprehensive solution to the Madagascar crisis. It urged the illegal regime in Madagascar to desist from attempts to impose unilateral solutions to the current crisis. The Assembly requested the AU and SADC to continue their collaboration to find a rapid solution to the crisis. It expressed its full support for the efforts deployed by former President Joaquim Chissano, took note of the proposal that I presented to the Malagasy parties and urged them to respond expeditiously to the said proposals.

20. Pursuant to the decision of the 14th Ordinary Session of the Assembly of the Union, the Commissioner for Peace and Security carried out a mission to Maputo from 10 to 14 February 2010 to coordinate efforts of the Africa Union and SADC aimed at speedy restoration of constitutional order in Madagascar. During that mission, Commissioner Lamamra held talks with President Armando Emilio Guebuza; former President Joaquim Chissano, Head of SADC Mediation Team; the Minister of Foreign Affairs and Cooperation, Oldemiro Júlio Marques Baloi as well as with the Executive Secretary of SADC, Dr. Tomaz A. Salomão. Commissioner Lamamra also held discussions with members of a Malagasy delegation from the Rajoelina camp led by Colonel Camille Vital. During the consultations, AU and SADC pointed out that the reaction of the Rajoelina camp to my proposals was not satisfactory and was below the expectations of the International community. They noted with regret that that this camp continues to persevere in its unilateral actions despite the urgent appeals directed to it for implementation of the Maputo Agreements and the Addis Ababa Additional Act.

IV. OBSERVATIONS

21. The crisis exit process has remained deadlocked nearly one year after the unconstitutional change of Government in Madagascar. The hopes generated by the Maputo Agreements and the Addis Ababa Additional Act, concluded following sustained efforts on the part of AU and SADC with the support of the international partners, are yet to materialize.

22. Responsibility for the difficulties encountered in the implementation of the Maputo Agreements and the Addis Ababa Additional Act is shared. Clearly, the Malagasy parties have not exhibited the foresight and flexibility required to rapidly put an end to the crisis and spare their country of further suffering. At the same time, it should be observed that the Ratsiraka, Ravalomanana and Zafy camps have so far generally signaled their acceptance of the compromise proposals that I presented on 22 January 2010. The Rajoelina camp is alone in not supporting the proposals and has continued to take unilateral measures which cannot but result in additional difficulties.

23. As emphasized by the 14th Ordinary Session of the Assembly of the Union, it is imperative to speedily put an end to the current crisis and re-establish constitutional order. The persistent crisis not only exacerbates the tension in Madagascar with the risk that the prevailing situation may undermine the long- term stability and the preservation of civil peace; the crisis also has resulted in serious deterioration of the socio-economic conditions in Madagascar. All economic sectors in the country have been negatively affected. Too many Malagasy citizens have lost their jobs or have been laid off, particularly following the suspension by the United States of America of the application of the African Growth and Opportunity Act. It is obvious, moreover, that socio-economic situation will worsen should the European Union, the first economic partner of Madagascar, decide to suspend its aid, which stands at around Euros 630 million, especially in view of the fact that official development assistance accounts for 75 per cent of the investment budget of the State of Madagascar.

24. The speedy resolution of the crisis in Madagascar and the restoration of constitutional order is vital for the African Union especially because it is high time that the Continent decided to definitively turn over the page of coups d'Etat and other forms of unconstitutional changes. The decision on the prevention of unconstitutional changes of Government and stregnthening AU's capacity to manage such situations is significant in this regard [Assembly/AU/ Dec.269(XIV)]. That decision articulates a global approach to the issue of unconstitutional change of Government, based "zero tolerance" for coups d'Etat and for violations of democratic norms, the persistence and repetition of which could result in unconstitutional changes. It also significantly strengthens the sanctions applicable in the event of unconstitutional change and provides, in particular, for non-participation of authors of such change in elections organized to re-establish constitutional order, the imposition of economic sanctions and total diplomatic isolation, including through concerted action to contest the accreditation of the concerned *de facto* authorities vis-à-vis non-African international organizations.

25. In this connection, I would like to, once again, make an urgent appeal to the *de facto* authorities to respond positively to the proposals presented and place the interest of Madagascar above all other considerations. I call on the authorities to be fully cognizant of AU's determination to re-establish legality in Madagascar and to ensure compliance with the Agreements concluded. In the event of positive response, the Commission, in collaboration with the Head of SADC Mediation Team, will convene a meeting of the *chefs de file* of the political camps to harmonize their positions, resolve every other outstanding issues and thus pave the way for effective implementation of the Maputo Agreement and the Addis Ababa

Additional Act. I express the wish that the meeting of the ICG-M scheduled for 18 February 2010 will be crowned by huge support to the action led jointly by the AU and SADC for the return of constitutional order in Madagascar.

26. I intend to brief Council within two weeks to update it on the evolving situation and every other development, with the view to enabling it, if need be, to take the required measures. In the meantime, it is needful that Council re-affirms its determination to leave nothing undone to speed up the re-establishment of constitutional order in Madagascar, including through imposition of sanctions against the *de facto* authorities in Madagascar and all individuals and entities, action of which contributes to the maintenance of the unconstitutional *status quo*.

27. I would like to express gratitude to all partners of the African Union, in particular members of the Contact Group for their unfailing support for the efforts deployed by AU. I urge them to persevere in this direction.

Annex II to the letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

[Original: English and French]

Communiqué of the 216th meeting of the Peace and Security Council concerning Madagascar

The Peace and Security Council of the African Union (AU), at its 216th meeting held on 19 February 2010, adopted the following decision on the situation in the Republic of Madagascar:

Council,

1. **Takes note** of the Report of the Chairperson of the Commission on the situation in Madagascar [PSC/PR/2(CCXVI)], as well as the briefings provided by President Joaquim Chissano, Head of the SADC Mediation Team, representatives of SADC, the United Nations, the International Organization of *La Francophonie* and the European Union;

2. **Recalls its previous** decisions and statements on the situation in Madagascar, as well as the decisions adopted by the 14th Ordinary Session of the Assembly of the Union held in Addis Ababa from 31 January to 2 February 2010, and its commitment to the Maputo Agreements of 8 and 9 August 2009 and the Addis Ababa Additional Act of 6 November 2009, which provide the appropriate framework to restore constitutional order and achieve a comprehensive solution to the crisis in Madagascar. Council **notes** the communiqué of the 5th meeting of the International Contact Group on Madagascar (ICG-M), held in Addis Ababa on 18 February 2010;

3. **Expresses its full support** to the proposals for compromise solutions submitted to the Malagasy parties by the Chairperson of the Commission during his visit to Antananarivo, on 21 and 22 January 2010, with a view to facilitating the resumption of the implementation process of the Maputo Agreements of 8 and 9 August 2009 and the Addis Ababa Additional Act of 6 November 2009;

4. **Notes** that the Ratsiraka, Ravalomanana and Zafy camps have expressed their general agreement with the proposed compromise solutions submitted by the Chairperson of the Commission, while the reaction of the Rajoelina camp does not conform to these proposals. Council **also notes with concern** the adoption, in December 2009, by the *de facto* authorities borne out of the unconstitutional change, of a series of unilateral measures relating to the conduct of the Transition, including the repeal of the Transition Charter, which was unanimously agreed to in Maputo, and the dismissal of the consensus Prime Minister, Eugène Mangalaza, appointed pursuant to the Maputo Agreements and reconfirmed in his post by the Addis Ababa Additional Act;

5. **Encourages** the Chairperson of the Commission, in close collaboration with the Head of the SADC Mediation Team, to pursue, in the most appropriate manner and in the shortest time, the efforts already undertaken to overcome the current impasse on the basis of the compromise solutions that he has submitted;

6. **Strongly demands** the *de facto* authorities borne out of the unconstitutional change of Government to formally accept, by 16 March 2010, the Maputo Agreements of 8 and 9 August 2009 and the Addis Ababa Additional Act of 6 November 2009, and to revoke any domestic legal instrument which contains contrary stipulations;

7. **Recalls** paragraph 12 of decision Assembly/AU/Dec.279 (XIV) on the situation in Madagascar adopted by the 14th Ordinary Session of the Assembly, requesting Council to meet in due course to review the situation and take the required decisions in light of the relevant AU instruments;

8. **Decides**, in light of the relevant instruments of the AU, including the Lomé Declaration of July 2000 and decision Assembly/AU/Dec.269 (XIV) Rev. 1 on Unconstitutional Changes of Government and the Strengthening of the Capacity of the AU to Manage such Situations, adopted by the 14th Ordinary Session of the AU Assembly, as well as the Conclusions of the Peace and Security Council Retreat held in Ezulwini, Swaziland, from 17 to 19 December 2009, as adopted by the 213rd meeting of Council held on 22 December 2009, that, if by 16 March 2010, the *de facto* authorities borne out of the unconstitutional change do not comply with the full and timely implementation of Maputo Agreements and the Addis Ababa Additional Act, the following sanctions shall be applied, starting from 17 March 2010:

(i) travel ban against all members of the institutions set up by the *de facto* authorities borne out of the unconstitutional change and all other individuals members of the Rajoelina camp whose actions impede the AU and SADC efforts to restore constitutional order. In this respect, Council **decides** that these measures shall be without prejudice to exemptions that it may decide to grant, on a case-by-case basis, at its own initiative or upon request, on humanitarian grounds or for requirements linked to the negotiations for a way out of the crisis, as determined by Council on the basis of the Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Governments in Africa;

(ii) the freezing of funds, other financial assets and economic resources of all individuals and entities contributing, in one way or another, to the maintenance of the unconstitutional *status quo* and impeding the AU and SADC efforts to restore constitutional order. In this respect, Council **decides** that these measures shall be without prejudice to exemptions that it may grant, at its own initiative or upon request, to facilitate basic needs and expenses, as determined by Council on the basis of the Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Governments in Africa;

(iii) the diplomatic isolation of the de facto authorities borne out of unconstitutional change, through concerted action by Member States to challenge the participation of the representatives of these *de facto* authorities in the activities of non-African international organizations, including the United Nations and its agencies and other concerned bodies;

9. **Requests** the Commission to establish, in close collaboration with SADC, the list of the individuals and entities referred to in paragraph 8 (i and ii) of this decision, for communication, if necessary, to AU Member States and partners, and to take all other necessary steps for the implementation of sanctions imposed in paragraph 8 of this decision, including the diplomatic isolation of the *de facto* authorities borne out of the unconstitutional change in international forums, and **emphasizes**, in this regard, the crucial role of African Groups, including those in New York and Geneva;

10. **Calls upon** all Member States to extend their full cooperation towards the implementation, if necessary, of the sanctions imposed in paragraph 8 of this decision and **recalls**, in this respect, the

obligations of all Member States in accordance with Article 7 (2, 3 and 4) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

11. **Urges** all multilateral AU partners, especially the United Nations, the European Union and other international organizations, as well as bilateral partners, including the permanent members of the United Nations Security Council, to fully and unreservedly support the present decision. Council **underlines** the high importance the AU attaches to this issue and the need for the AU partners to refrain from any action which could undermine the efforts of the African Union and send different signals to the authors of the unconstitutional change in Madagascar, thereby undermining the democratization processes in which AU Member States have embarked upon. Council **requests** the Commission to monitor this issue and to report on any developments relating thereto;

12. **Further requests** the Chairperson of the Commission, in close collaboration with the Head of the SADC Mediation Team, to monitor and to ensure the implementation of all aspects of this decision, in accordance with the timetable provided in the Maputo Transition Charter, which provides for the completion of the transition by November 2010, and to report on the evolution of the situation;

13. **Decides** to remain seized of the matter.

Annex III to the letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

[Original: English and French]

Communiqué of the 216th meeting of the Peace and Security Council concerning the Niger

The Peace and Security Council of the African Union (AU), at its 216th meeting held on 19 February 2010, adopted the following decision on the situation in the Republic Niger:

Council:

1. **Takes note** of the briefing made by the Commission on the situation in Niger,

2. **Condemns** the seizure of power by force that took place in Niger on 18 February 2010;

3. **Recalls** Decision PSC/AHG/COMM 2(CCVII) adopted at its 207th meeting held in Abuja on 29 October 2009, through which it endorsed the decisions on the situation in Niger as adopted by the Extraordinary Summit of ECOWAS held in Abuja on 17 October 2009, as well as the relevant paragraph of the decision on the report of the Peace and Security Council of the African Union on its Activities and the State of Peace and Security in Africa, adopted by the 14th Ordinary Session of the Assembly of the Union, held in Addis Ababa from 31 January to 2 February 2010 ;

4. **Stresses** that the relevant AU instruments systematically condemn any unconstitutional change of Government, **demands** the speedy return to constitutional order based on democratic institutions and **affirms** the readiness of the AU, in close collaboration with ECOWAS, to facilitate such a process. In this respect, Council **endorses** the communiqué issued by the Chairperson of the Commission on 19 February 2010;

5. **Decides**, in accordance with the relevant legal instruments of the AU, to suspend the participation of Niger in all activities of the African Union until the effective restoration of constitutional order in the country, as it existed before the referendum of 4 August 2009;

6. **Reiterates its appreciation and strong support** for the efforts of ECOWAS, particularly through the mediation led by General Abdulsalami Abubakar, aimed at facilitating the early resolution of the crisis in Niger and the democratic functioning of the institutions of the country, with the participation and support of all the political forces, and **encourages** it to pursue its action. Council **urges** AU partners to extend their full support to ECOWAS efforts;

7. **Stresses,** in the current context, the importance and relevance of the decision adopted by the 14th Ordinary Session of the Assembly of the Union on the Prevention of Unconstitutional Changes of Government and Strengthening of the Capacity of the AU to Manage such Situations, which is based on zero tolerance of coups d'Etat, but also of the violations of democratic norms, the persistence and recurrence of which could result in unconstitutional changes;

8. **Welcomes the mission** that the Commissioner for Peace and Security of the African Union intends to immediately undertake to Niamey, together with the President of the ECOWAS Commission and the Special Representative of the United Nations Secretary-General for West Africa, and **looks forward** to the report on the results of this mission;

9. **Decides** to remain seized of the situation.